

MASSACHUSETTS FORESTRY COMMITTEE MEETING

Harvard Forest, Petersham

March 15, 2007

DRAFT

Minutes

Attendees

Committee Members: Paul Barten (Water Supply), Jim DiMaio (DCR Ex-Officio), Roger Plourde (Consulting Forester), Harry Webb (Forest Landowner), Bernie Bergeron (Primary Wood Using Industry), David Foster (Public at Large), John Conkey (Licensed Timber Harvester), Richard DeGraaf (Fisheries & Wildlife)

Others: Jim Soper (DCR), Mike Fleming (DCR), Ed Fuller (DCR), Herm Eck (DCR), Anne Marie Kittredge (DFW), Bruce Spencer, Tom Anderson, Susan Benoit, Mike Leonard, Mike Mauri, Fred Heyes, John Randall, Tom Brule', Lincoln Fish, Shane Bajnoci, Jake Baehr, Scott Sylvester

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Meeting called to order at 1:08 PM.

Handouts: The following were provided to those present.

1. MA State Forestry Committee Public Meeting Notice / January 18, 2007
2. Draft Minutes from January 18, 2007 committee meeting (pp. 1 - 5)
3. DRAFT - 304 CMR 11.00: FOREST CUTTING PRACTICES REGULATIONS - 3/9/07 (pp. 1-50)
4. Comments from Mike Leonard dated: March 14, 2007 "Why Massachusetts Licensed Foresters Should Be The Only Ones Legally Able To File Forest Cutting Plans:" (pp. 1 - 2)

Overview

P. Barten

- Provided a brief historical overview of the process to date.

January Minutes

P. Barten

- Provided Committee time to review Draft Minutes (01/18/07) handout

Motion: by Harry Webb and seconded by David Foster to accept the January minutes. Motion passed without objection.

Review of DRAFT 304 CMR 11.00: FCP REGULATIONS – 3/9/07 handout

J. Soper

- Discussed how changes from last MFC meeting were incorporated.
- The document was reviewed by NHESP and Anne Marie Kittredge (DFW).
- The changes from the Silviculture Subcommittee were not incorporated.

Comments

- **H. Webb**: Discussed issue of changing definition of "abutter" as previously mentioned at the January MFC meeting.
- **J. Conkey**: Raised issue of "10 year Cutting Plans".
- **R. Plourde**: Asked if trees would need to be marked (re: 10 yr FCP)?
- **J. Conkey**: Not Necessarily.
- **J. Soper**: An exemption in the regulations could be included. Suggested items like this could be addressed during the public hearing / comment period.
- **P. Barten**: Restated above and agreed with J. Soper.
- **J. Conkey**: Shared example of ongoing harvesting operation relative to: "need to mark all trees"?
- **P. Barten**: Provided follow-up on "need for marking" and the relatively few instances where this would occur.

- **R. Plourde:** Discussed “Silviculture Subcommittee” changes from last MFC (January) meeting and commented on “Motion” approved at last meeting re: follow-up on loose ends for “Standards”.
- **P. Barten:** Asked J. DiMaio if comments from Silviculture Subcommittee can be attached.
- **J. DiMaio:** Suggested this not be as it could confuse the public if attached.
- **P. Barten and D. Foster:** Have subcommittee provide MFC with changes that would be added (attached)?
- **R. Plourde:** the word “predominantly” would be added in regulations. Not intended to mean what it does as presently written.
- **J. DiMaio:** Asked Roger to define “predominantly”.
- **R. Plourde:** Means “mostly”.
- **J. DiMaio:** Vague definitions can cause difficulty. Suggested it be precisely defined.
- **R. Plourde:** As written it does not work (dominant and codominant trees)?
- **P. Barten:** May take a paragraph to explain if necessary.
- **F. Heyes:** Expressed concern over regulations going forward as is and relying on public hearing / meeting / comment process when we can insert changes here.
- **J. DiMaio:** Asked to table discussion.
- **M. Mauri:** Important for committee to present that form of recommended regulations that reflects what MFC feels is appropriate.
- **B. Bergeron:** Expressed concern over past history of input not showing up in final documents.
- **J. DiMaio:** Discussed with the Commissioner and met with D. Boogdanian and other DCR staff about process.
- **B. Bergeron:** Has comments from MA Wood Producers that would like to provide for consideration.
- **J. Conkey:** What’s the need to rush?
- **J. DiMaio:** Would be good to move forward. There is a compelling reason. When does the process begin and end is a good question. Process: Hand off to legal staff (form here). Legal staff to other DCR staff (senior staff), then to EOEEA for review, then post and set date for public meeting/comments (committee input as to how many, where and when would be asked. Up to the agency on how long comment period (recommends 45 days). 5 to 7 minutes each at Public Meeting. If changes are postponed they will need to be compelling. DCR will analyze and summarize public input. Commissioner has decided to give the MFC the analysis and summary for review. DEP, NHESP, Archeologist, etc. Will then review again. Goes to Commissioner for posting for DCR staff, and EOEEA, then to State Secretary’s Office to sign off. May trigger another second round of hearings / comments.
- **F. Heyes:** Suggest MFC makes changes of subcommittee before finalizing.
- **J. DiMaio:** Explained the process re: MFC role.
- **B. Bergeron:** Expressed concern over process on how changes by Silviculture Subcommittee were addressed.
- **P. Barten:** Expressed belief that process has enabled full participation.
- **J. Conkey:** Expressed concern over if everyone fully understood the input during the entire process.
- **D. Foster:** Expressed belief process has been extended, that materials have not always been provided timely, but has been and open and engaging process.
- **H. Webb:** Expressed belief that there has been sufficient notice and opportunity to attend MFC meetings and participate.
- **P. Barten:** Expressed belief that short-term / long-term did generate interest and participation.
- **R. Plourde:** Provided an Intermediate Report, but time constraints did not allow for details.
- **T. Anderson:** No problem with the way the law was before (is now), but would rather loose the short-term / long-term issue than the entire law. Expressed belief that the Subcommittee changes should be incorporated before submitting final recommendations.
- **S. Benoit:** Clear charge to subcommittee was explained and ample time for input has been provided.
- **J. DiMaio:** Expressed concern over e-mail votes and public meeting laws.

- **M. Leonard:** addressed his handout “Why Massachusetts Licensed Foresters Should Be The Only Ones Legally Able To File Forest Cutting Plans.”
- **B. Bergeron:** Expressed view that Ch 132 does not include language requiring “Licensed Foresters”. Harvesters have a grasp on many harvesting issues.
- **P. Barten:** Re: who can sign a Forest Cutting Plan? Believes work that goes into FCPs and review by Service Foresters does not necessitate only Licensed Foresters filling out Forest Cutting Plans.
- **J. Conkey:** Agreed with P. Barten.
- **D. DeGraaf:** Also agrees others are capable of filling out FCPs. Direct attention to protect private forests.
- **H. Webb:** Would not want to preclude landowners from filing / completing FCPs.
- **D. Foster:** Focus on private lands with resources available. Does not see a reason for a landowner not being able to file / complete a FCP. Promote need to use Private Consulting Foresters.
- **R. Plourde:** We should not trivialize the issue. It does not necessarily mean only Licensed Foresters can file FCPs.
- **J. Conkey:** When will this issue be revisited?
- **J. DiMaio:** Need to give this a chance to work. Changing too often may not help the situation.
- **P. Barten:** Service Foresters monitoring needs to be considered.
- **J. DiMaio:** re: Licensed Forester issue:
 - Forests and Forestry are the priorities.
 - Sustainable Forest Management.
 - Dolores spent time and effort on “Agent” issue.

Break 2:45 PM – 3:05 PM

- **P. Barten:** Schedule meeting to refine / fine tune in the form of amendments by entertaining other additional input from the public. Single vote to transmit.
- **D. DeGraaf:** Suggest changes / amendments be added to document.
- **P. Barten:** Do like a manuscript – line numbers.
- **B. Bergeron:** Supports P. Barten’s suggestion. Has notes he would like to present today.
- **P. Barten:** Should be made available before hand.
- **B. Bergeron:** “Forest Growth to Forest Purposes” example presented.
- **J. Conkey:** Great Idea.
- **L. Fish:** Would MFC accept small discrete amendments from public?
- **P. Barten:** Yes.
- **S. Benoit:** At what point does this become the “Public Hearing / Comment” process for regulations?
- **J. DiMaio:** Anyone can be added to the e-mail list maintained by DCR (J. DiMaio).
- **P. Barten:** Discussed potential time line. Announce next week (public input). MFC (2 week to process) May 3, 10, 17...
- **S. Benoit:** Forum on May 9th.
- **J. DiMaio:** May 3rd so can be presented at MA Forest Forum.
- **P. Barten:** Asked J. DiMaio to provide written process to MFC.
- **J. DiMaio:** Will do.
- **P. Barten:** Comments in by May 30th from above.
- **F. Heyes:** Comments on “Physical Evidence”, i.e. – “Perc tests”. May be needed to determine value of property. Laws / regulations should not create unintended consequences that do not allow a forest landowner the enjoyment of their forest.
- **J. DiMaio:** Suggested it would be helpful to propose a solution to any issue presented.
- **J. Soper:** Important to look at context in which the recommended changes were made.
- **M. Fleming:** Point of Order, Issue on MFC Motion re: loose ends from Silvicultural Subcommittee approved at last MFC meeting (see January minutes).

- **J. Conkey:** Expressed concern over issue with culverts to access lot and landing. Access over ditch. Harvesting is as agricultural activity. There are times when bridges are not appropriate and culverts are.
- **J. Soper:** Issues may be appropriate to include during public hearing / comment period.
- **S. Benoit:** Farmers do not have exemption from Ch 131.
- **P. Barten:** Pipe access vs. culvert discussed. Culvert sizing issue. Guidance document may help provide way to deal with some issues.
- **J. DiMaio:** DCR / Bureau must consider legality.
- **J. Soper:** Other public views need to be considered.
- **L. Fish:** "Limited Projects" history presented. May need to revisit limited project issue, especially for lands with CRs.
- **P. Barten:** Ongoing BMP and design standards changes briefly discussed.

Motion: by B. Bergeron and seconded by J. Conkey that MFC will provide a call for final comments, amendments, improvements on 3/9/07 DRAFT. Close on March 30, 2007. DCR will compile for MFC and hold single meeting on May 10, 2007 to review and incorporate into final draft that would be forwarded to DCR. Motion passed without objection.

Next meeting – Harvard Forest / Petersham / May 10, 2007

Meeting adjourned at 4:42 P.M.